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Date: 8/25/2009 4:38 PM
Subject: Statement Regarding HB 5207 at the Commerce Committee, Rep. Robert Jones, Chair on 8-26-09 (10:30 a.m.)

PLEASE PHOTOCOPY AND DISTRIBUTE TO EACH COMMITTEE MEMBER

HB 5207 is designed to revise the legislation passed in 1977 as P. A. 158. The Attorney General's Office (Assistant Attorney General Prins) explained at the transfer of the Colony Farm Orchard in 1977 that the state was "transferring jurisdiction" to Western Michigan University and that was not the same as ownership. The legislation (P.A. 158) transferred less than complete ownership rights to Western Michigan University by placing restrictive language in the bill. The restrictive language in the conveyance legislation for both the Asylum Lake Preserve and the Colony Farm Orchard is the same. Western Michigan University may "utilize the property solely for public park, recreation, or open space purposes, except that the legislature, by statute, may authorize western Michigan university to utilize the property for some other public purpose."

The intention of the legislators who wrote the legislation of conveyance in 1975 for Asylum Lake and in 1977 for the Colony Farm Orchard was clear; these two properties were both to be set aside for public use. Historically, Western Michigan University has failed to open the Colony Farm Orchard to the public and has established the impression that it "owns" the property. After keeping the Colony Farm Orchard closed to the public, Western Michigan University can now argue that the property is not used. Western Michigan University has also failed to gain legislative approval for using the Colony Farm Orchard for "some other purpose" but has treated the Colony Farm Orchard as its own preserve. Without seeking authorization from "the legislature, by statute" the University allowed utilities to be built at the south end of the Colony Farm Orchard, it allowed the widening of Drake Road into the wooded east edge of the Colony Farm Orchard and it kept the property off-limits to the public. In 1993, Western Michigan University failed to gain legislative approval for developing the Colony Farm Orchard into its Business, Technological Research Park (BTR) in the name of "some other public purpose". Following this failure, Western Michigan University agreed to develop its BTR on the Lee Baker Farm, which it owned, and the environmental organization, Asylum Lake Preservation Association (ALPA) agreed to not interfere with its development but to work with the then Vice President for Business and Finance to reach an agreement to protect the Asylum Lake Preserve. This was accomplished in 2004.

Now that the Lee Baker Farm is nearly filled, Western Michigan University has returned to its original focus to develop the Colony Farm Orchard and to treat the earlier agreement as non-existent. To clear the Colony Farm Orchard for the development of more BTR Park and destroy the existing wild life, ecosystem and tree coverage reduces this open space to a replica of the current BTR Park. Such a development destroys the wooded buffer area to the Asylum Lake Preserve and endangers the headwaters and water shed of Asylum Lake located at the northern end of the Colony Farm Orchard. The Asylum Lake Preservation Association is asking that the University select an alternative piece of property and spare this land set aside for the public by our legislators

in 1977.

Please do not approve H.B. 5207.

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